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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	Case No. CR-07-0742 (EDL)
)	
Plaintiff,)	[PROPOSED] ORDER FOR
vs.)	ISSUANCE OF PRETRIAL
)	<u>SUBPOENA DUCES TECUM</u>
DAMIEN SEXTON,)	
)	
Defendant.)	

On March 19, 2008 Defendant Damien Sexton, by and through counsel, filed an *ex parte* application for the issuance of a pretrial subpoena *duces tecum*, directing the custodian of records for United Airlines to produce specified documents and information. The defendant provided notice to the Government of this application. On March 25, 2008, the parties appeared in Court for hearing on this request. The Court finds that the defendant has demonstrated a need for the information sought, pursuant to Rule 17(c) of the Federal Rules of Criminal Procedure, but that

the request as framed by the defendant is overbroad. Accordingly, the Court grants defendant's motion that a subpoena *duces tecum* issue to United Airlines as follows:

GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that a subpoena *duces tecum* issued pursuant to Fed Crim P 17(c), directing the custodian of records for United Airlines to produce a partial flight manifest for United Airlines flight 189 for the date of March 21, 2007, which flew traveling from Philadelphia (PHL) to San Francisco (SFO), identifying, by name and seat number, the passengers occupying rows 13 – 23, inclusive.

IT IS FURTHER ORDERED that the Rule 17(c) subpoena to United Airlines direct the airline to include, with its production, a seating chart showing the passengers seated in rows 13 – 23 by name and seat number. The subpoena shall direct the airline to include, in its production, the addresses and telephone numbers (contact information) of the passengers identified pursuant to this subpoena.

IT IS FURTHER ORDERED that the names, addresses, and telephone numbers of passengers (contact information) included in United Airlines production shall be disclosed to the parties, if the Court finds such disclosure appropriate, subject to the same conditions and limitations as the protective order entered by the Court on March 14, 2008, namely, that the information produced pursuant to the subpoena is for the use of counsel only (or for any investigators used by the prosecution and the defense to contact and interview witnesses and cannot be provided to anyone else, and, in particular, to the defendant herein). IT IS ORDERED that any person receiving the information produced pursuant to this subpoena will acknowledge in writing that they have reviewed this protective order, understand its terms, and will not disclose the witness contact information to anyone without prior approval of the Court.

IT IS SO ORDERED.

Dated: March 28, 2008

HONORABLE ELIZABETH D. LAPORTE
United States District Court Judge

